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CHARLES ELMORE CROPLEY

Supreme Court of the United States

OCTOBER TERM, 1940

NO. 12,—ORIGINAL

THE UNITED STATES OF AMERICA
Plaintiff,

vs.

THE STATE OF ALABAMA,
Defendant,

ANSWER TO COMPLAINT

THOMAS S. LAWSON,
Attorney General,
State of Alabama.

JOHN W. LAPSLEY,
Assistant Attorney General,
State of Alabama.

J. EDWARD THORNTON,
Assistant Attorney General,
State of Alabama,
Of Counsel.

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vs.

THE STATE OF ALABAMA,
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In answer to the Complaint filed in this cause by the United States of America, the State of Alabama, by its Attorney General, presents the following defenses:

FIRST DEFENSE

The Complaint fails to state a claim against defendant upon which relief can be granted.

SECOND DEFENSE

Without waiving the first defense, but in addition thereto, and in answer to the allegations contained in said Complaint, the defendant says:

1. Answering the allegations of fact contained in the paragraph numbered I of said Complaint, defendant admits that the plaintiff is in possession of the several tracts or parcels of land situated in the County of Macon, State of Alabama, more particularly described therein, and that said tracts or parcels of land were conveyed to the plaintiff on the dates and by deeds executed by the respective grant-

ors mentioned in said complaint. Each of the deeds conveying said lands to plaintiff contained general covenants of warranty on behalf of the grantors therein. The defendant, however, denies that the plaintiff is the owner of said several tracts or parcels of land, and alleges that the title acquired by plaintiff to said lands was subject to the lien of defendant for *ad valorem* taxes thereon for the tax year commencing October 1, 1936, and ending September 30, 1937, which lien was enforced for the non-payment of said taxes as hereinafter more particularly set forth.

2. Answering the allegations of fact contained in the paragraph numbered II of said Complaint, defendant alleges that at the time of the execution of said several deeds to the plaintiff the amount of state and coutny taxes upon said lands for the current tax year, namely: commencing on October 1, 1936, and ending September 30, 1937, had not been finally ascertained or determined, but defendant alleges that on October 1, 1936, each of said tracts or parcels of land was subject to state and county *ad valorem* taxes for said tax year; and on such date, October 1, 1936, said tracts or parcels of land became subject to a lien thereon, as provided by Section 372 of the General Revenue Act of Alabama, approved July 10, 1935, (General Acts of Alabama, Regular Session 1935, pp. 256, 566), to secure the payment of *ad valorem* taxes thereon for said year. Thereafter, during said tax year, as provided by law, said lands were duly returned by or on behalf of said above mentioned grantors, as the respective owners thereof on October 1, 1936,

for purposes of the assessment of said lands for *ad valorem* taxes thereon for said tax year, and said tracts or parcels of land were duly and regularly assessed for *ad valorem* taxes against said several owners as taxpayers for said tax year. Thereafter, on January 1, 1938, the amount of said taxes due by said taxpayers on said lands became delinquent, and on, to wit: the 16th day of May, 1938, and the 12th day of June, 1938, respectively, after the service of notice thereof upon each of said taxpayers, as provided by law, decrees were duly entered against each of said taxpayers in the Probate Court of Macon County, Alabama, for the sale of said lands for the payment of such taxes, together with fees and costs. On, to wit: the 12th day of June, 1939, pursuant to said several decrees, said lands were offered for sale, and as authorized and provided by law, the State of Alabama became the purchaser of said lands at such tax sales; and thereafter on, to wit: the 29th day of June, 1939, a certificate of purchase for each said tract or parcel of land was duly issued to the defendant as the purchaser thereof at said sale, which certificates have not been assigned but are still held and owned by defendant. Said lands have not been redeemed from said tax sales, and defendant as such purchaser claims to own all of the right, title, interest and estate owned by the several taxpayers in and to said lands on October 1, 1936, subject to the right of redemption of said lands from said tax sales, as provided by the statutes of Alabama.

3. Defendant admits the allegations of fact contained in the paragraph numbered III of said Complaint.

4. Answering the allegations of fact contained in the paragraph numbered IV of said Complaint, defendant denies that its said title or claim to said lands constitutes a cloud upon the title or claim of the plaintiff to said lands, and defendant alleges that its said title or claim to said lands is superior to any title, interest or claim of the plaintiff therein or thereto.

5. Defendant denies the allegations of fact contained in the paragraph numbered V of said Complaint, and alleges that the plaintiff is entitled to redeem said lands from the above mentioned tax sales, and that the plaintiff has an adequate remedy at law against said several grantors, for the breach of the covenants of warranty contained in said deeds to plaintiff, to reimburse the plaintiff for the amounts which may be required to be paid by it for the redemption of said lands from said tax sales, or for the payment of said taxes thereon for said tax year.

6. Answering paragraph numbered VI of said Complaint, defendant denies that its said claims to an interest in said lands, by virtue of said tax liens and sales, or as resulting from the hereinabove mentioned judicial proceedings are invalid as an attempt to tax property belonging to the United States; and defendant denies that the hereinabove mentioned judicial proceedings for the sale of said lands for the payment of said taxes and in the enforcement of said liens therefor, as to the interest acquired by plaintiff in said land, was unconstitutional or invalid, or that the plaintiff

was made or attempted to be made a party defendant in such judicial proceedings.

If defendant is mistaken in alleging that said judicial proceedings for the sale of said lands and said sales made pursuant thereto were valid, the defendant alleges that it has valid liens upon said lands for said state and county taxes thereon for said tax year commencing October 1, 1936, and ending September 30, 1937, and, in equity, is entitled to the enforcement of said liens in such manner and form as may be provided by law, or as may be required or provided by this Court in this cause.

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